



Entered on Docket
March 21, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

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*Counsel for the Official Committee of Equity Security Holders of
USA Capital First Trust Deed Fund, LLC*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:) BK-S-06-10725-LBR
USA COMMERCIAL MORTGAGE COMPANY) Chapter 11
Debtor)

In re:) BK-S-06-10726-LBR
USA CAPITAL REALTY ADVISORS, LLC,) Chapter 11
Debtor)

In re:) BK-S-06-10727-LBR
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,) Chapter 11
Debtor)

In re:) BK-S-06-10728-LBR
USA CAPITAL FIRST TRUST DEED FUND, LLC,) Chapter 11
Debtor.)

In re:) BK-S-06-10729-LBR
USA SECURITIES, LLC,) Chapter 11
Debtor.)

Affects)
☐ All Debtors)
☒ USA Commercial Mortgage Co.)
☐ USA Securities, LLC)
☐ USA Capital Realty Advisors, LLC)
☐ USA Capital Diversified Trust Deed)
☒ USA Capital First Trust Deed Fund, LLC)

DATE: March 15, 2007
TIME: 9:30 a.m.

**ORDER RE FIFTH OMNIBUS OBJECTION OF THE OFFICIAL COMMITTEE OF
EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC
- MISFILED CLAIMS (AFFECTS DEBTORS USA COMMERCIAL MORTGAGE CO.
AND USA CAPITAL FIRST TRUST DEED FUND, LLC.)**

The Court having considered the Fifth Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC – Misfiled Claims (the “Objection”)(Docket No. 2745); Shlomo S. Sherman, Esq. of the law firm of Shea & Carlyon, Ltd. appearing on behalf of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the “FTDF Committee”) (with any other appearances having been noted in open court); the Court having considered the Objection; adequate notice of the Objection having been given; there having been no response filed to the Objection; and good cause appearing:

IT IS HEREBY ORDERED that the Objection is sustained, and the Claims listed on Exhibit “A” (the “Claims”) hereto are disallowed; and

IT IS FURTHER ORDERED that, to the extent that certain of the Claims were not timely filed in Case No. BK-S-06-10725-LBR (the “USACM Case”), such Claims shall be deemed to have been filed in the USACM Case, as of the date such Claims were filed in the FTDF Case, without prejudice to the rights of any party to object or otherwise respond to such Claims.

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1 SUBMITTED BY:

2 SHEA & CARLYON, LTD.

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4 CANDACE C. CARLYON, ESQ.

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RULE 9021 DECLARATION

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☐ I have delivered a copy of proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and each has:
- ☐ approved the form of this order;
- ☐ waived signature in open court; and/or
- ☐ failed to file and serve papers in accordance with LR 9021(c).
- ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with LR 9021(c) and the following have disapproved the order:
- ☒ No opposition was filed to the motion and no other party or counsel appeared at the hearing.

DATED this 15TH day of March, 2007.

SHEA & CARLYON, LTD.



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EXHIBIT “A”

Wrong Debtor Claims

FDTF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Filed Claim Against USACM?	Proposed Disposition
140	Acres Corporation, a Nevada Corporation	December 8, 2006	Blank	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Del Valle Capital Corporation.	No	Reclassify (without prejudice) claim as claim against USACM.
141	Acres Corporation, a Nevada Corporation	December 8, 2006	\$50,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Fiesta Development, Inc.	No	Reclassify (without prejudice) claim as claim against USACM.
142	Acres Corporation, a Nevada Corporation	December 8, 2006	\$50,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Elizabeth May Real Estate, LLC.	No	Reclassify (without prejudice) claim as claim against USACM.

FDTF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Filed Claim Against USACM?	Proposed Disposition
143	Michael C Rehberger and Jeana L Rehberger	December 8, 2006	\$50,000.00	Claimants are not FTDF Members nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimants to Elizabeth May Real Estate, LLC.	No	Reclassify (without prejudice) claim as claim against USACM.
144	Michael Rehberger	December 8, 2006	\$50,000.00	Claimant is not a FTDF Member nor is he otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Cornman Toltec 160, LLC	No	Reclassify (without prejudice) claim as claim against USACM.
145	Newman Trust Dated 1/26/94 c/o David R. Newman and Sandra L. Newman Trustees	December 22, 2006	\$87,339.67	Claimant is not a FTDF Member nor is it they otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Foxhill 216, LLC.	No	Reclassify (without prejudice) claim as claim against USACM.

FDTF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Filed Claim Against USACM?	Proposed Disposition
146	Daniel R Halseth & Sandra K Halseth Trustees of the Halseth Family Trust Totally Restated 4/21/00	January 7, 2007	Unliquidated	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on loans that were made by the Claimant to Roam Development Group, Bay Pompano Beach, Gateway Stone, Del Valle – Livingston, and Palm Harbor One.	Yes	Disallow in its entirety against FTDF.
147	Katrine Mirzaian	January 9, 2007	\$344,011.56	Claimant is not a FTDF Member nor is she otherwise connected to the FTDF. Proof of claim appears to be based on loans that were made by the Claimant to Bay Pompano Beach, Foxhill 216 LLC, HFA-North Yonkers, and Midvale Marketplace.	Yes	Disallow in its entirety against FTDF.

FDTF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Filed Claim Against USACM?	Proposed Disposition
149	First Savings Bank- Custodian for: George A. DiGioia	January 5, 2007	\$281,250.00	Claimant is not a FTDF Member nor is he otherwise connected to the FTDF. Proof of claim appears to be based on loans that were made by the Claimant to BarUSA, Placer Vineyards, and Standard Property.	No	Reclassify (without prejudice) claim as claim against USACM.